(1) 25.10.05 4

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO. 1728 OF 2006

PETITIONER

R. K. Sharma, S/o Late Shri R. S. Sharma, aged About 54 years, Occupation - service, at Present posted as the Secretary, Chhattisgarh Urdu Academy, Office at 7/381, Fazal Complex, Baijnathpara, Raipur, Dist. Raipur (Chhattisgarh)

P.R. No. 17936
Presented by Shri ... on 31/3/06
dated

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through the Secretary Department of SC/CT Development, Mantralaya, Dau Kalyan Singh Bhawan Raipur (Chhattisgarh)

RECEIVED-COPY
D. Rajak 31/3/06
CLERK to A. G. BILASPUR

2. Adhyaksha, Chhattisgarh Urdu Academy, 7/381, Fazal Complex, Baijnath-para, Raipur, District Raipur (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

The petitioner above-named most respectfully submits as under:

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

WP No. 1728/06

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.5.2006

Shri Manindra Shriavastava, Sr. Adv. with Shri Afroz Khan, Advocate for the petitioner.

Shri G.K. Beriwal, Dy. Adv. Gen. for respondent No.1.

Shri Roshan Dubey, Advocate for respondent No.2.

Heard.

By the instant petition the petitioner has questioned the legality and propriety of the order dated 28.3.2006 passed by respondent No.1 whereby the petitioner has repatriated to his parent department.

The case of the petitioner is that he was working on the post of Senior Lecturer in the Department of Tribal Welfare, Govt. of Chhattisgarh. While the petitioner was continuing on the said post, with the consent of the petitioner, he was sent on deputation to the Urdu Academy on the post of Secretary vide order-dated 25.10.2005 and he joined on the said post on 27.10.2005 in compliance of the Government's order. While discharging the duties, the petitioner forwarded the necessary documents for perusal of the State Government, which annoyed respondent No.2 and therefore, she earned severe displeasure against the petitioner and scolded him as to why he sent all such information to the Government. On 31.12.2005 a meeting of the Executive Committee was held wherein all the members passed resolution against respondent No.2. Further case of the petitioner is

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that he was performing his duty on the post of Secretary with full devotion, sincerity and satisfaction, he is duty bound to bring to the notice of the Government al the relevant informations, however, he shocked to know that an order has been passed on 28.3.2006 by which the petitioner has been repatriated to his parent department. Normally the tenure of deputation post is four years but the petitioner has been repatriated to his parent department within a short span of period without there being any complaint against him.

Reply of respondent No.1 is that somehow the petitioner and respondent No.2 could not work with cordial relations and cooperation, therefore, the Government decided to repatriate the petitioner to his parent department.

I have heard learned counsel for the parties.

Learned Sr. Counsel for the petitioner submitted that the petitioner has been repatriated only on account of displeasure of respondent No.2 and if this order is allowed to exist, then this may come in the way of his career and may be considered as a stigma that why he has been repatriated within such a short span of period.

In the matter of **State of Madhya Pradesh and others V. Ashok Deshmukh and another** reported in **(1988) 3 Supreme Court Cases 503** the Hon'ble Apex Court held that;

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> "Unless the bias or malafide against the authority is established repatriation order by the department to substantive post in the parent department cannot be termed as arbitrary or violative of Article 14 of the Constitution of India."

Similarly in the matter of **Kunal Nanda Vs. Union of India and another** reported in **(2000) 5 Supreme Court Cases 362** the Hon'ble Apex Court held that:

> "Deputationist has no right to continue on deputation or to claim permanent absorption in borrowing department, unless his permanent absorption is covered by a statutory provision."

Again in the matter of **Ratilal B. Soni and others Vs. State of Gujarat and others** reported in **AIR 1990 Supreme Court 1132** the Hon'ble Apex Court held that;

> "Govt. servant on deputation can be reverted to his present cadre at any time- Such servant do not get any right to be absorbed on the deputation post."

Therefore, an employee can be repatriated at any time, if no allegation of bias and malafide against the authority is made. In this case, the petitioner has been repatriated by the State Government and there is no allegation against the State Government regarding bias or malafide.

As far as the apprehension of the petitioner is concerned, from the reply of respondent No.1-State it is evident that the petitioner has

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	been repatriated only because the relations between respondent No.2 and petitioner were not cordial, it has nowhere been mentioned that relations were not cordial on account of the conduct of petitioner, therefore, the apprehension of the petitioner appears to be unfounded. Moreover, some allegations were levelled against the petitioner, therefore, an enquiry was instituted against him and same was conducted by the Executive Officer of C.G. State Haz Committee. The Executive Officer submitted his report on 1.4.2006 and perusal of which shows that the petitioner has been exonerated from all the charges levelled by respondent No.2. Therefore, there is no record to show the misconduct of the petitioner in any way and the repatriation of the petitioner has been made for administrative reasons without any stigma on his service. In view of the above, repatriation of the petitioner is on administrative exigency and it does not require interference by this Court. With the aforesaid, the petition stands disposed of. I.A. No.3812/06 also stands disposed of. Sd/- L.C. Bhadoo Judge Roshan/-	

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